

AFFIDAVIT

I, Keith Nelson, being duly sworn, state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been employed as an FBI Special Agent since May 15, 2005. Since joining the FBI, I have been responsible for investigating financial crimes, health care and prescription drug crimes, organized crime groups and violent street gangs. I am currently assigned to the FBI's North Shore Safe Streets Gang Task Force (the "FBI Task Force"), which is comprised of FBI special agents, troopers from the Massachusetts State Police, officers from the Chelsea, Lawrence, and Lynn Police Departments, Essex County Deputy Sheriffs, and other local law enforcement officials. The mission of the Task Force is to identify, investigate, disrupt, and dismantle violent criminal organizations operating in cities north of Boston. My investigations have included the use of surveillance techniques and the execution of search, seizure, and arrest warrants.

2. Based on my training and experience, I know that it is a violation of Title 18, United States Code, Section 922(g)(5)(A) for an alien illegally or unlawfully in the United States to possess ammunition which had previously traveled in interstate commerce. An "alien" refers to any person who is not a citizen or national of the United States. See 8 U.S.C. §1101(a)(3); 18 U.S.C. §922(y)(1)(A).

3. I submit this affidavit in support of a criminal complaint charging CRISTIAN ALVAREZ HERNANDEZ, a/k/a "Duende," with being an alien in possession of ammunition, in violation of 18 U.S.C. §922(g)(5)(A). The facts set forth herein are based upon my work on this investigation, a review of reports written by law enforcement officers in connection with this investigation, and discussions about the investigation with those officers. In submitting this affidavit, I have not included every fact known to me about the investigation but only those facts

which I believe are sufficient to establish probable cause for the crime set forth in the accompanying criminal complaint.

4. On or about September 2, 2017, several members of the FBI Task Force – including myself; Sergeant Mario Millet and Troopers Brian Estevez and Shawn Riley of the Massachusetts State Police; Special Agent Errol Flynn of Homeland Security Investigations (HSI); Detective Steven Withrow of the Lynn Police Department; Detective Scott Conley of the Chelsea Police Department; and Deputy Pat O’Brien of the Suffolk County Sheriff’s Department - were in the vicinity of Washington Avenue in Chelsea. At approximately 3:00 p.m., Trooper Riley observed a white Toyota Camry, Massachusetts registration number 5TBV50, traveling on Washington Avenue with excessive window tint. He conducted a motor vehicle stop of the Camry, identified the operator as Cristian Cruz, and eventually issued Cruz a citation for operation of a motor vehicle with excessive window tint. Trooper Riley observed a passenger in the back seat of the Camry. Trooper Riley noted that the rear seat passenger was not wearing a seat belt and he asked him for his identification. The back seat passenger did not have any identification but advised Riley that his name was CRISTIAN ALVAREZ HERNANDEZ and provided a date of birth of March 16, 1999.

5. During a multi-year investigation by the FBI into the criminal activities of La Mara Salvatrucha, or MS-13, several cooperating witnesses have identified HERNANDEZ as “Duende,” a member of MS-13’s Everett Loco Salvatrucha (ELS) clique. Based on information received from HSI, I know that HERNANDEZ is an alien who is illegally and unlawfully present in the United States.

6. Special Agent Flynn approached the Camry and spoke to HERNANDEZ. While speaking to HERNANDEZ, Flynn observed a backpack on the seat next to him, as well as a blue

and black Chicago Bulls baseball cap (commonly worn by MS-13 members). Special Agent Flynn directed HERNANDEZ to step out of the Camry and escorted him to the rear of the car. Special Agent Flynn asked HERNANDEZ in English if the backpack and hat were his and HERNANDEZ replied in English that they were.

7. FBI Task Force Agents Withrow and O'Brien removed the backpack from the Camry. Inside the backpack, they observed a box cutter, some items of clothing, a firearm, and 148 rounds of ammunition. Specifically, they recovered the following:

- a Smith and Wesson .22 caliber pistol;
- one box of fifty rounds of Remington .32 caliber ammunition;
- a second box containing 39 rounds of Remington .32 caliber ammunition;
- 11 rounds of Remington .32 caliber ammunition inside a glove;
- one box containing 42 rounds of Sig Sauer .380 caliber ammunition; and
- six loose rounds of .44 caliber ammunition.

Agents also seized a Samsung cellular telephone from HERNANDEZ's person.

8. Based on my visual inspection of the ammunition and my training and experience, I believe that the ammunition seized from HERNANDEZ's backpack meets the definition of "ammunition" under federal law, namely, that the items are ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

9. Agents transported HERNANDEZ to the State Police barracks in Revere where he was booked. Trooper Estevez provided HERNANDEZ with Miranda warnings in Spanish and HERNANDEZ advised Estevez in Spanish that he understood his rights. Trooper Estevez asked HERNANDEZ in Spanish if the backpack was his and HERNANDEZ replied in Spanish that it

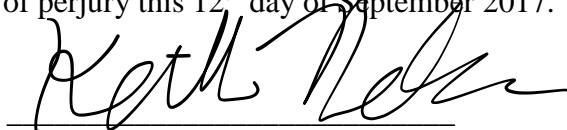
was. After he was booked, HERNANDEZ was placed in custody at the Suffolk County House of Corrections and detained pending further action before an immigration judge.

10. Special Agent Mattheu Kelsch of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has advised me that the ammunition seized from HERNANDEZ'S backpack was manufactured outside the Commonwealth of Massachusetts and that had traveled in and affected interstate commerce before September 2, 2017.

11. Based on the foregoing, and based on my training and experience, I submit that there is probable cause to believe that on September 2, 2017, in Chelsea, Massachusetts, CRISTIAN ALVAREZ HERNANDEZ, a/k/a "Duende," was an alien in possession of ammunition, in violation of Title 18, United States Code, Section 922(g)(5)(A).

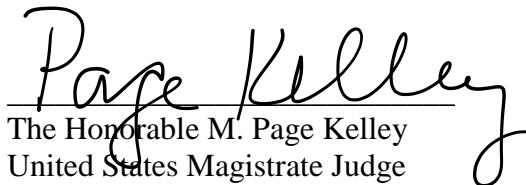
I, Keith Nelson, having signed this Affidavit under oath as to all assertions and allegations contained herein, state that its contents are true and correct to the best of my knowledge, information and belief.

Signed under the pains and penalties of perjury this 12<sup>th</sup> day of September 2017.



Keith Nelson  
Special Agent  
Federal Bureau of Investigation

Sworn to and subscribed before me this 12<sup>th</sup> day of September 2017.



The Honorable M. Page Kelley  
United States Magistrate Judge